

**IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF PENNSYLVANIA**

SOUTHERN COAL SALES
CORPORATION,

Plaintiff,

vs.

XCOAL ENERGY & RESOURCES,
XCOAL ENERGY & RESOURCES LLC,
and ERNIE L. THRASHER

Defendants.

Misc. Case No. _____

Relates to Action No. 7:12-cv-265 Pending
in the United States District Court for the
Western District of Virginia, Roanoke
Division

**MOTION TO QUASH NON-PARTY SUBPOENA TO ROSEBUD MINING
COMPANY OR, IN THE ALTERNATIVE, FOR PROTECTIVE ORDER**

Defendants Xcoal Energy & Resources, Xcoal Energy & Resources, LLC, and Ernie L. Thrasher, by and through their undersigned counsel and pursuant to Federal Rules of Civil Procedure 26 and 45, hereby move to quash the subpoena served on Rosebud Mining Company in the above-referenced matter or, in the alternative, respectfully request that this Court enter a protective order prohibiting the disclosure of confidential and/or proprietary information belonging either to Rosebud Mining Company or Defendants in response to the subpoena. In support of this Motion, Defendants are filing the accompanying Memorandum of Law and Affidavit of Frank Kozlesky. A proposed Order is attached hereto.

DATED this 13th day of November, 2012.

Respectfully submitted,

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